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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,133

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Joseph E. Firebaugh

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EXAMINER

PANNALA, SATHYANARAYA R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,133	Applicant(s) FIREBAUGH ET AL.	
	Examiner Sathyanarayan Pannala	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Reopened Prosecution

1. In view of the Supplemental Appeal Brief filed on 9/18/2008, and Appeal Brief filed on 8/26/2008 PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 as (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid

2. A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164

3. In response to Applicant's Appeal Brief filed on 9/18/2008, In this Reopened non-Office Action, claims 1-16 are pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 12-13, line 4, stated as "CONTAINER", applicant is claiming a data type definition statement.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-16 are rejected under 35 U.S.C. § 101, because claims are directed to non-statutory subject matter. Claim 1 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series

of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing.

The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps of providing a large data set, generating a synopsis, which can all be done mentally, and therefore do not qualify as a statutory process, transmitting synopsis are steps can be achieved mentally. Claims 1-9 are dependent on claim 1 and they are rejected under the same rationale as claim 1.

8. Independent claims 10, 15 are claiming a computer program per se and nonfunctional descriptive material consisting of data structures and computer programs, which impart functionality when employed as a computer component. As such, the claims are not limited to statutory subject matter and are therefore non-statutory. Claims 11-14 are dependent on claim 10 and they are rejected under the same rationale as claim 10. Similarly claim 16 is dependent on claim 15 and it is rejected under the same rationale as claim 15.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-8, 10 and 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Darbie (USPA Pub. 2004/0205463 A1) hereinafter Darbie.

11. As per independent claims 1, 10, 15, Darbie teaches the claimed, a method of synopsisizing large data sets to facilitate the use of an accessibility system (Fig. 1, 3, par. [0009], lines 1-4). Darbie teaches the claimed, providing a large data set (Fig. 4, par. [0052], lines 7-8). Darbie teaches the claimed, formatting large data set in a markup language data structure (Fig. 4, par. [0010], lines 1-2). Darbie teaches the claimed, generating a synopsis of a large data (Fig. 4, par. [0011], lines 8-9). Further, Darbie teaches the claimed, formatting said synopsis of said large data set in a synopsis container that includes said large data set and said synopsis of said large data set (Fig. 4, 7, par. [0012], lines 8-11 and par. [0061], lines 10-13). Darbie teaches the claimed, transmitting synopsis container to a computer having an accessibility system (Fig. 2, 4, par. [0032], lines 10-12). Darbie teaches the claimed, the synopsis container operative to cause the accessibility system to output the synopsis of said large data set (Fig. 4, par. [0027], lines 1-5).

The other limitations of claim 10 are:

Darbie teaches the claimed, generating a data structure initial tag and terminating tag (Fig. 6, 7, par. [0057], lines 1-12 and par. [0063], lines 13-16).

12. As per dependent claim 2, Darbie teaches the claimed, providing a large data set comprises automatically generating said large data set in response to a user input (Fig. 4, par. [0028], lines 5-7).

13. As per dependent claim 3, Darbie teaches the claimed, providing a large data set comprises retrieving said large data set from storage in response to a user input (Fig. 2, 7, par. [0060], lines 9-14).

14. As per dependent claim 4, Darbie teaches the claimed, formatting said large data set for transmission comprises generating markup language data structures to direct the display of said large data set at a client terminal (Fig. 2, 7, par. [0060], lines 9-14).

15. As per dependent claim 5, Darbie teaches the claimed, generating a synopsis of said large data set comprises automatically generating said synopsis by comparing data elements in said large data set to predetermined metrics (Fig. 2, 7, par. [0060], lines 14-25 and par. [0032], lines 5-9).

16. As per dependent claim 6, Darbie teaches the claimed, generating a synopsis of said large data set comprises writing said synopsis by an individual (Fig. 1, par. [0030], lines 1-5 and par. [0052], lines 14-17).

17. As per dependent claim 7, Darbie teaches the claimed, formatting said synopsis of said large data set in a synopsis container comprises generating a markup language data structure defining said synopsis container (Fig. 7, par. [0061], lines 8-10).

18. As per dependent claim 8, De Boor teaches the claimed, transmitting said synopsis container comprises transmitting a markup language data structure including said large data set and said synopsis (Fig. 1, par. [0032], lines 10-12).

19. As per dependent claim 14, Darbie teaches the claimed, outputting a markup language data structure data structure synopsisizing the large data set comprises outputting data formatted as a markup language data structure compatible with the Hyper-Text Markup Language (Fig. 1, par. [0033], lines 1-3).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

21. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbie (USPA Pub. 2004/0205463 A1) hereinafter Darbie, in view of De Boor et al. (US Patent 6,470,381) hereinafter De Boor.

22. As per dependent claim 11, Darbie teaches the claim 10 and does not explicitly teach generating attributes. However, De Boor teaches the claimed, computer programs are further operative to cause a computer to perform the steps of generating a flag attribute indicating whether or not a computer having an accessibility system should output said large data set (Fig. 7, col. 22, lines 34-52). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because De Boor's teachings would have allowed Darbie's method to provide Internet access via the HyperText Transport

Protocol (HTTP), in response to user selection of data items associated with content located on the Internet (col. 4, lines 16-18).

23. As per dependent claim 12, De Boor teaches the claimed, the computer programs are further operative to cause a computer to perform the steps of associating markup language data structure with the keyword CONTAINER (Fig. 7, col. 22, lines 34-52).

24. The data structure of claim 13, De Boor teaches the claimed, generating the markup language data structure initial tag comprises generating the tag <CONTAINER> (HEAD) (Fig. 7) and generating a markup language data structure terminating tag comprises generating the tag </CONTAINER> (Fig. 7, col. 22, lines 34-52).

25. Claims 9, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbie et al. (USPA Pub. 2004/0205463 A1) hereinafter Darbie, in view of De Boor et al. (US Patent 6,470,381) hereinafter De Boor, and further in view of Slotznick et al. (USPA Pub. 2002/0178007 A1) hereinafter Slotznick.

26. As per dependent claims 9, 16, Darbie and De Boor do not explicitly teach using a screen reader. However, Slotznick teaches the claimed, accessibility system is a screen reader (Page 2, paragraph [0018]). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Slotznick's teachings would have allowed

Darbie's method to provide Text-to-speech browsers are also an expense for those in the lower socio-economic levels, frequently costing end users over \$100 (par. [0016], lines 11-14).

Response to Arguments

27. Applicant's arguments filed on 9/18/2008 have been fully considered but they are moot in view of the new grounds of rejection.

Conclusion

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 2164

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sathyanarayan Pannala/
Primary Examiner, Art Unit 2164

srp
November 21, 2008

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164